

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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CSC HOLDINGS, INC.,

Plaintiff,

-against-

JAY OLIVO,

Defendant.

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ORDER ADOPTING REPORT &
RECOMMENDATION
04-CV-5435 (JS)(ARL)

Appearances:

For Plaintiff: Shaun K. Hogan, Esq.
 Lefkowitz, Louis Sullivan & Hogan LLP
 350 Jericho Turnpike, Suite 300
 Jericho, NY 11753

For Defendant: No Appearance

SEYBERT, District Judge:

Upon review of the Report and Recommendation of Magistrate Judge Arlene R. Lindsay issued July 22, 2005, to which no party has objected, the Court hereby ADOPTS the Report and Recommendation in its entirety. The Court GRANTS Plaintiff's motion for a default judgment and GRANTS Plaintiff's request for reasonable attorneys fees and costs. The Court awards Plaintiff a total sum of \$3,966.00.

Magistrate Judge Lindsay's Report and Recommendation directed Plaintiff to serve a copy of the Report and Recommendation on Mr. Olivo by certified mail, and to file proof of service with the Court. The Report and Recommendation further provided that any objections were to be filed with the Clerk of the Court within ten days of the date of service. An affidavit of service docketed August 9, 2005 indicates that Plaintiff attempted to serve the

Report and Recommendation as directed by Magistrate Judge Lindsay, but the mailing was returned without receipt. The address used was: 521 North Lewis Avenue, Lindenhurst, NY 11757. The docket indicates that the Complaint was served at this address in accordance with N.Y. C.P.L.R. § 308(2).

A Defendant may not extend his time for filing objections by purposefully avoiding service or refusing to take delivery of documents at an address that is his own. Defendant received adequate notice that there was a federal action pending against him and did not manifest any interest in defending against Plaintiff's claims. Accordingly, the Court finds that the time for filing objections has expired and deems all objections waived.

Therefore, the Court ADOPTS Magistrate Judge Lindsay's Report and Recommendation and issues a default judgment in favor of Plaintiff against Defendant in the amount of \$2,280.00. In addition, the Court awards Plaintiff \$1,686.00 as compensation for attorneys' fees and costs. Plaintiff's total award against Defendant is \$3,966.00. Plaintiff is ORDERED to serve a copy of this Order upon Defendant via first class mail within ten days of the date of this Order. The Clerk of the Court is directed to mark this matter as CLOSED.

SO ORDERED

Dated: Central Islip, New York
February 17, 2006

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.